



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

April 12, 2006

Michael Lux, Treasurer
21st Century Democrats
1731 Connecticut Avenue NW, Second Floor
Washington, DC 20009

Response Due Date:
May 12, 2006

Identification Number: C00230342

Reference: March Monthly Report (2/1/06-2/28/06)

Dear Mr.Lux:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **An adequate response must be received at the Commission by the response date noted above.** An itemization of the information needed follows:

-Schedule B supporting Line 29 of your report discloses a disbursement(s) for an apparent refund or rebate to your non-federal account for a previously allocated expense. Please be advised the refund or rebate must be allocated between the federal and non-federal accounts according to the same allocation ratio used to allocate the original disbursement. Furthermore, the federal account must transfer the non-federal portion to the non-federal account using one of two methods.

The method of reporting described in Advisory Opinion 1995-22 allows a committee to itemize the refund or rebate as a negative entry on Schedule H4. Alternatively, a committee may disclose the receipt of the refund or rebate into the federal account on Schedule A supporting Line 15, and the transfer of the non-federal account's share to the non-federal account on Schedule H4. Please refer to the enclosed sample of properly reported refunds and rebates of allocable activity and amend your report as appropriate.

-Schedule B discloses an expenditure(s) for "Fundraiser Postage." If a portion or all of these expenditures were for public communications (as defined by 11 CFR §100.26) and voter drive activity (under 11 CFR §106.6(b)(2)(i)) containing express advocacy as defined under 11 CFR

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§100.22, this would constitute an in-kind contribution or an independent expenditure and should be properly disclosed on a Schedule B or E supporting Line 23 or 24 as appropriate. Public communications and voter drive activity that refer to a clearly identified Federal candidate, but that do not expressly advocate the election or defeat of that candidate should be reported on Schedule B for Line 21(b) of the Detailed Summary Page. Please clarify whether this activity contained express advocacy and amend your report to properly disclose this activity, if necessary.

-Commission Regulations require that a committee disclose the identification of all individuals who contribute in excess of \$200 in a calendar year. (11 CFR §104.3(a)(4)(i)) Identification for an individual is defined as the full name, mailing address, occupation and name of employer. (11 CFR §100.12) Your report discloses contributions from individuals for which the identification is not complete.

You must provide the missing information, or if you are unable to do so, you must demonstrate that "best efforts" have been used to obtain the information. To establish "best efforts," you must provide the Commission with a detailed description of your procedures for requesting the information. Establishing "best efforts" is a three-fold process.

First, your original solicitation must include a clear and conspicuous request for the contributor information and must inform the contributor of the requirements of federal law for the reporting of such information. (11 CFR §104.7(b)(1))

Second, if the information is not provided, you must make one follow-up, stand alone effort to obtain this information, regardless of whether the contribution(s) was solicited or not. This effort must occur no later than 30 days after receipt of the contribution and may be in the form of a written request or an oral request documented in writing. (11 CFR § 104.7(b)(2)) The request must:

- clearly ask for the missing information, without soliciting a contribution;
- inform the contributor of the requirements of federal law for the reporting of such information, and
- if the request is written, include a pre-addressed post card or return envelope.

Third, if you receive contributor information after the contribution(s) has been reported, you shall either a) file with your next regularly scheduled report, an amended memo Schedule A listing all the contributions for which

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additional information was received; or b) file on or before your next regularly scheduled reporting date, amendments to the report(s) originally disclosing the contribution(s). (11 CFR §104.7(b)(4))

Please provide the missing information or a detailed description of your procedures for requesting the information. For more information on demonstrating "best efforts," please refer to the Campaign Guide.

-In a memo text attached to your report, you disclose what appear to be the employer and occupation of persons who previously contributed to your committee. Please be advised that if you receive contributor information after the contribution(s) has been reported, you shall either a) file with your next regularly scheduled report, an amended memo Schedule A listing all the contributions for which additional information was received; or b) file on or before your next regularly scheduled reporting date, amendments to the report(s) originally disclosing the contribution(s). (11 CFR §104.7(b)(4)) Please note that the use of a memo text is for narrative responses that do not affect actual entries within a report.

Please note, you will not receive an additional notice from the Commission on this matter. Adequate responses received on or before this date will be taken into consideration in determining whether audit action will be initiated. **Requests for extensions of time in which to respond will not be considered.** Failure to provide an adequate response by this date may result in an audit of the committee. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action.

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1136.

Sincerely, ,



Jodi Winship
Campaign Finance Analyst
Reports Analysis Division

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ALLOCATION OF REBATE (H4) (METHOD 1)

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| SCHEDULE H4 (FEC Form 3X) DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE | | | | PAGE 1 OF 1 FOR LINE 21 OF FORM 3X |
| NAME OF COMMITTEE (in full) | | | | |
| Freedom Party State Committee | | | | |
| A. Full Name (Last, First, Middle Initial) Acme Office Supplies | | Allocated Activity or Event: <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Fundraising <input type="checkbox"/> Example <input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support | | |
| Mailing Address: 111 Paddenpencil St. City: ST Zip Code: 1K000 | | Allocated Activity or Event Year-To-Date: \$6,000.00 | | |
| Purpose of Disbursement: Rebate | | Date: 03/15/2004 | | |
| Activity or Event Identifier: (See Schedule A) | | Category Type: | | |
| FEDERAL SHARE: -144.00 | | NON-FEDERAL SHARE: -256.00 | | TOTAL AMOUNT: -400.00 |

RECEIPT OF REBATE (A/LINE 15) (METHOD 2)

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS | | Use separate schedule for each category of the Detailed Summary Page | FOR LINE NUMBER (check only one): <input type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 11d <input checked="" type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 17 |
| Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee. | | | |
| NAME OF COMMITTEE (in full) | | | |
| Freedom Party State Committee | | | |
| Full Name (Last, First, Middle Initial) Acme Office Supplies | | Date of Receipt: 03/01/2004 | |
| Mailing Address: 111 Paddenpencil St. City: ST Zip Code: 1K000 | | Amount of Each Receipt Line Period: 400.00 | |
| FEC ID number of contributing federal political committee: 01 | | Rebate: | |
| Name of Offeree: (See Schedule A) | | Occupation: | |
| Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input checked="" type="checkbox"/> Other (specify): | | Aggregate Year-to-Date: 400.00 | |

NONFEDERAL TRANSFER (H4) (METHOD 2)

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|--------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---------------------------------------|
| SCHEDULE H4 (FEC Form 3X) DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE | | | | PAGE 1 OF 1 FOR LINE 21 OF FORM 3X |
| NAME OF COMMITTEE (in full) | | | | |
| Freedom Party State Committee | | | | |
| A. Full Name (Last, First, Middle Initial) Freedom Party State Committee Nonfederal Account | | Allocated Activity or Event: <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Fundraising <input type="checkbox"/> Example <input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support | | |
| Mailing Address: 111 Politics St. City: ST Zip Code: 00000 | | Allocated Activity or Event Year-To-Date: \$0.00 | | |
| Purpose of Disbursement: Transfer of Nonfederal Share of Rebate (See Schedule A) | | Date: 03/15/2004 | | |
| Activity or Event Identifier: (See Schedule A) | | Category Type: | | |
| FEDERAL SHARE: 256.00 | | NON-FEDERAL SHARE: 0.00 | | TOTAL AMOUNT: 256.00 |

9. Refunds and Rebates of Allocable Expenses

If a committee receives a refund or a rebate of an allocable expense, the refund or rebate must be deposited in the federal or allocation account. The refund or rebate must then be allocated between the federal and nonfederal accounts according to the same allocation ratio used to allocate the original disbursement. The federal account must transfer the non-federal portion to the nonfederal account.

Example

A committee receives a \$400 rebate on office equipment from the Acme Office Store. The original purchase was an administrative expense allocated according to the following ratio: 64 percent federal; 36 percent nonfederal.

Reporting Method 1 illustrates how this rebate would be reported according to the method approved in Advisory Opinion (AO) 1995-22. Reporting Method 2 shows how the rebate would be reported under an alternative method.

Reporting Method 1

Using the method of reporting described in AO 1995-22, the committee discloses the receipt of the rebate and the federal and nonfederal shares on Schedule H4.

The amounts are negative entries subtracted from total shared federal and nonfederal disbursements for the reporting period (disclosed on Lines 21a(i) and (ii) of the Detailed Summary Page).

Reporting Method 2

Under the alternative method, the committee reports the receipt of the \$400 rebate under the category "Offsets to Operating Expenditures" on

Line 15 of the Form 3X Detailed Summary Page. The committee uses Schedule H4 to disclose the federal account's \$256 transfer to the nonfederal account for the nonfederal share.

10. Prohibited In-Kind Donations for Allocable Activities

While contributions from corporations, labor organizations and federal government contractors are prohibited under federal law, they are permissible under some state laws. If that is the case, such donations may be accepted by a nonfederal account for strictly nonfederal activity. However, the situation is more complicated when donations of goods or services from such sources are made in connection with allocable activity, such as a fundraiser at which both federal and nonfederal funds are collected.

In AO 1992-33, the Commission explained how a committee can legally accept an in-kind donation from a prohibited source in connection with an allocable administrative or fundraising activity. Note that the Commission has not addressed the receipt of in-kind donations from prohibited sources for the other types of allocable expenses (i.e., generic voter drives and candidate support activity).

Advance Payment of Federal Share

To avoid the receipt of a prohibited contribution by the federal account, that account must pay the nonfederal account for the federal share of the in-kind donation. This payment—a transfer to the nonfederal account—must be made in advance or on the date the goods or services are received.

Per-Transaction Transfers

The federal transfer may be made on a per-transaction basis—that is, shortly before or on the same day the in-kind donation is received.

Escrow Transfers

Alternatively, the federal account may make bulk transfers to cover the federal share of anticipated in-kind donations. Under this "escrow" arrangement, a committee makes a good faith estimate of the amount of in-kind donations that it expects to receive and transfers sufficient funds from the federal account to cover the federal share.

Adjustments

Should the federal account pay more than its share of an in-kind donation, adjustment transfers from the nonfederal account are permissible.

Basic Reporting of In-Kind Donations: Example

On October 1, a state party committee receives a \$5,000 in-kind donation of flowers from a corporation for a federal/nonfederal fundraiser ("Chairman's Gala"). The estimated allocation ratio for the fundraiser is 50 percent federal and 50 percent nonfederal. That same day, the federal account transfers its share of the in-kind donation (\$2,500) to the nonfederal account.

Required Forms

- Schedule H2—Allocation Ratios
- Schedule H3—Transfers from Nonfederal Account
- Schedule H4—Payments for Allocable Expenses

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